

REMARKS

In the Office Action mailed on February 10, 2006, the Examiner rejected claims 60, 62-64, and 66-71. At time the Office Action was mailed, claims 61 and 65 were withdrawn. Claims 60-71 are presently canceled, and claims 72-95 are presently added. No fees are required for the newly added claims. Reconsideration of the application in view of the remarks set forth below is respectfully requested.

Rejection Under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 60, 62, and 66-71 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By this paper, Applicants cancel claims 60, 62, and 66-71. Accordingly, the Examiner's rejection under 35 U.S.C. § 112, second paragraph is no longer pertinent.

Terminal Disclaimer

In the Office Action, the Examiner stated that the Terminal Disclaimers filed December 13, 2006 do not comply with 37 C.F.R. § 1.321(b) and/or (c) because an attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent in a representative capacity. While Applicants believe that a Terminal Disclaimer is no longer necessary in view of the current claim amendments, a Revocation and New Power of Attorney,

and a Change of Correspondence are attached hereto to establish proper representative capacity and correspondence procedures.

If the Examiner maintains that a Terminal Disclaimer is needed for the presently pending claims, Applicants respectfully request that the Examiner contact the undersigned at the telephone number listed below. Applicants will provide a Terminal Disclaimer as a supplement to the present Response.

Double Patenting

In the Office Action, the Examiner rejected claims 60, 62-64, and 66-71 on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 3, 14, and 15 of U.S. Patent No. 6,662,033, claims 3 and 5-7 of U.S. Patent No. 6,272,363, and claims 8 and 9 of U.S. Patent No. 5,421,329. By the present paper, Applicants cancel claims 60, 62-64, and 66-71. Accordingly, the Examiner's rejection on the grounds of non-statutory obviousness-type double patenting is no longer pertinent.

Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 60, 62-64, and 66-71 under 35 U.S.C. § 102(e) as being anticipated by Lewis et al. (U.S. Patent No. 5,902,235). Additionally, the Examiner rejected claims 60, 63, and 71 under 35 U.S.C. § 102(e) as being anticipated by Tamura

et al. (U.S. Patent No. 5,353,791). By this paper, Applicants cancel claims 60, 62-64, and 66-71.

Accordingly, the Examiner's rejections under 35 U.S.C. § 102 are no longer pertinent.

New Claims

As set forth above, the Applicants added new claims 72-95. The Applicants believe these claims are patentable over the cited references and in condition for allowance. Specifically, Applicants believe that the cited references fail teach all of the features recited in the newly added independent claims. For example, none of the cited references teach detecting and/or emitting specific light wavelengths having values between 725 and 745 nanometers and between 880 and 940 nanometers, as recited in independent claims 72 and 84. Additionally, Applicants assert that none of the cited references teach detecting and/or emitting a first light having a wavelength range optimized for high oxygen saturation, a second light having a wavelength range optimized for low oxygen saturation, and a third light having a wavelength value between 800 and 1000 nanometers, as recited in independent claims 76 and 88. Similarly, Applicants assert that none of the cited references teach emitting and/or detecting a first light having a wavelength of approximately 660 nanometers, a second light having a wavelength of approximately 730 nanometers, and a third light having a wavelength of approximately 900 nanometers, as recited in independent claims 83 and 95. Further, the cited references certainly do not teach selecting two of the first, second and third lights for use in determining a calculated oxygen saturation value based on an estimated value of oxygen saturation, as further set forth in claims 83 and 95. Accordingly, independent

claims 72, 76, 83, 84, 88, and 95, and the claims depending therefrom are believed allowable.

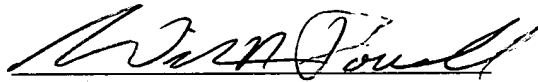
Thus, the Applicants request that the Examiner allow the new claims 72-95.

Conclusion

If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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